GOVERNMENT OF INDIA
PANCHAYATI RAJ
LOK SABHA

UNSTARRED QUESTION NO:5522
ANSWERED ON:16.05.2007
MANDATORY PROVISIONS UNDER PESA
Gamang Shri Giridhar

Will the Minister of PANCHAYATI RAJ be pleased to state:

(a) the details of mandatory and obligatory provisions under PESA implemented by the States having areas Fifth Scheduled demarcated under the Constitution, State- wise;

(b) the measures taken by the Ministry of Tribal Affairs to see that these provisions are adopted by the States to check the exploitation of the tribals; and

(c) the coordinated approach adopted by the concerned ministries in this regard so far?

Answer

MINISTER OF PANCHAYATI RAJ (SHRI MANI SHANKAR AIYAR)

(a): While all States have enacted the requisite compliance legislation by amending their respective Panchayati Raj Acts, certain gaps continue to exist. The status of implementation of PESA by States having Areas covered under the Fifth Schedule of the Constitution is placed at Annexe-I.

(b): PESA is administered by the Ministry of Panchayati Raj. The role of the Ministry of Tribal Affairs is to ensure that the central policies, schemes and Act(s) administered by them are in consonance with the spirit of the provisions of PESA. The Ministry of Tribal Affairs has asked State Governments to amend existing laws to bring them in conformity with the provisions of PESA.

(c): The Ministry of Panchayati Raj has taken the following steps in coordination with other Central Ministries to ensure the effective implementation of PESA:

1. The Ministry of Panchayati Raj has been in touch with the Ministry of Tribal Affairs throughout the process of enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Clause 13 of the Act provides :

"Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force."

The Ministry of Panchayati Raj has also been represented in the Technical Support Group for framing Rules to operationalise the above Act. Many of the provisions of the said Act, such as rights over minor forest produce, deal with the provisions of PESA.

2. The Ministry of Panchayati Raj is in touch with the Department of Legal Affairs to identify and get amended various central laws which appear not to be in full consonance with PESA. The Department of Legal Affairs have identified the following Acts for amendment to make them consonant with the provisions of PESA. These central laws are:

- The Indian Forest Act-1927,
- The Mines and Minerals (Development and Regulation) Act, 1957,
- The Transfer of Property Act-1882,
- The Indian Registration Act-1908 and
- The Land Acquisition Act-1894.

The Ministry has been requesting the Ministry of Law to expedite the process of amending these central laws in coordination with the relevant Central Ministries.

3. The Ministry of Panchayati Raj had appointed the Indian Law Institute to study each State law in the PESA states which impinge on the provisions of PESA. Several hundred state laws were examined, specific amendments were drafted and these detailed drafts have been sent to the State governments of the PESA States for amending their specific subject laws as per PESA provisions.

Annexe-I

The Status of PESA Implementation in different States

Section 4. a. A State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

Andhra Pradesh	In consonance.	Consequent upon the PESA Act, the State Government enacted an Act. No.7 of 1998 extending the provision of Part-IX of the Constitutions of India relating to Panchayats in Scheduled areas. State Legislation is in consonance with the customary law and Social, religious and traditional management practices as per the provisions of section 242 B and 242 C of the State Act.
Chhattisgarh	The State has not clarified the current position	
Gujarat	In consonance.	The State Act provides that while making a recommendation in respect of a local area in the schedule areas it shall be ensured that the local area shall ordinarily consist of a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with the traditions and customs.
Himachal Pradesh	In consonance	Yes, Section 97-C of the Himachal Pradesh Panchayati Raj (second amendment) Act, 1997 provides that every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of people, their cultural identity, community resources and without detrimental to any law for the time being in force, the customary mode of dispute resolution.
Rajasthan	In consonance	Government of Rajasthan stated that this issue relates to the State Government.
Jharkhand	Not known	State has not yet sent its current status
Madhya Pradesh	In consonance	Section 129 C of State PR Act states that Gram Sabha has power to safeguard the tradition and customs of the people.
Maharashtra	In consonance	Section 8A (i) of Bombay Villages Panchayat Act.
Orissa	State has not clarified the position	

Section 4. b. A village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;

Andhra Pradesh In consonance As per section 242 B of the State Act a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets thereof comprising a community or communities and managing their affairs in accordance with traditions and customs.

However, Tribal Welfare Department has requested to extend the definition of village so as to also include land water and forest areas etc., on which they are dependent on their sustenance and livelihood.

Chhattisgarh Position not known

Gujarat Not in consonance There is no definition of the natural village in the state of PESA blocks but in Gujarat State the revenue villages are almost natural village or falias.

Himachal Pradesh In consonance `A village shall ordinarily consist of a habitation or a group of habitation or a hamlet or a group of hamlet thereof comprising a community or communities and managing their affairs in accordance with traditions and customs

Rajasthan Not in consonance As per clause 2A of the notification of the State Government dated 30-9-1999 "village" means a village specified for this purpose in the notification in the gazette by the Government.

Jharkhand In consonance As per the provision of Jharkhand Panchayat Raj Act 2001 in the Scheduled Areas in which there will ordinarily be a residence or a group of residences or a tola or a group of tolas comprising such community as manages its activities according to its customs and usages.

Madhya Pradesh Definition of village is not clear in Madhya Pradesh

Maharashtra The State has not clarified its position on the section

Orissa In consonance Have palli sabha consisting of hamlets

Section 4. c. Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

Andhra Pradesh In consonance Units of the ST in the scheduled area in the Gram Panchayats and such persons shall be deemed to be members of the Gram Sabha. There is suggestion to include such persons or their parents as have been resident of such village prior to the date of notification of scheduled areas or the earliest emergence of settlements whichever is earlier

Chhattisgarh In consonance

Gujarat In consonance The Gram Sabha shall consists of persons whose names are included in the list of voters of electoral divisions of that village.

Himachal Pradesh In consonance Persons whose names appear in the electoral roll of the Panchyat

Rajasthan In consonance As per clause 3-A of notification of the State Government dated 30-9-1999, every village will have a Gram Sabha in which persons included their names must exist in the electorate rolls at the village Panchayat level.

Jharkhand In consonance Under the provisions of Jharkhand Panchayat Raj Act ordinarily there shall be one Gram Sabha for a village but if the members of a gram Sabha may desire, then another Gram Sabha constituted in the manner to be prescribed and in the area of each such Gram Sabha there shall be a residence or a group of residences or group of small village or villages / tolas comprising communities which shall manage their activities to customs and usages.

Madhya Pradesh In consonance Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level.

Maharashtra Not known

Orissa In consonant In consonance with the provsion of PESA

Section 4(d) of PESA provides that every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their culture identity, community resources and the customary mode of dispute resolution.

Andhra Pradesh In consonance. Section 242-C of the State Panchayati Raj Act. Says that every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community recourses and without detriment to any law for the time being in force in the customary mode of dispute resolution.

Chhattisgarh In consonance. Section 129-C of the State Panchayati Raj Act. Says that Gram Sabha shall have power to safeguard and preserve the traditions and customs of the people, their cultural identity and community resources and customary mode of dispute resolution.

Gujarat In consonance. Section 4(3)(a) Of State Panchayat Raj Act. Says that the Gram Sabha shall endeavour to safeguard and preserve the traditions and customs of the inhabitants of the village, their cultural identity, community resources and customary mode of dispute

resolution.

Himachal Pradesh (i) In consonance of Himachal Pradesh PR Act 1993 Section 97-C Section 97 (c) Says that Section lays down that Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and without detriment to any law for the time being in force, the customary mode of dispute resolution.

Rajasthan In consonance Section 8-E (h) of the State Panchayati Raj Act. Says that Gram Sabha may promote unity and harmony among all sections of the society and under clause (m) take control over institutions and functionaries in all social sectors.

As per clause 3-B of notification of the State Government dated 30-9-1999 every Gram Sabha will be competent to safeguard and preserve the traditions and customs of the people, their culture identity, community resources; According to that and local conditions, Gram Sabha may take necessary decision.

Jharkhand In consonance Section 10(5) (i) of the Jharkhand Panchayat Raj Act 2001 provides that Gram Sabha shall protect and preserve the traditions and customs of persons their cultural identity and community means.

Madhya Pradesh In consonance Section 129 C of State PR Act states that Gram Sabha has power to safeguard the tradition and customs of the people.

Maharashtra In consonance Section 8A (i) of Bombay Villages Panchayat Act.

Orissa Not in consonance Section 5(6) of State PR Act lays down that "The provision as been made subject to relevant Laws in force and in harmony with basic tenets of the constitution and human rights"

Section 4(e) of the PESA stipulates that every Gram Sabha shall
(i) approve the plans,
programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

(ii) be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes

Andhra Pradesh In consonance. Section 242C(2) of the State Panchayati Raj Act. Says that every Gram Sabha shall
(i) approve plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Gram Panchayat at Village level,
(ii) be responsible for the identification of selection of persons as beneficiaries under poverty alleviation and other programmes.

Chhattisgarh Not in consonance. Chhattisgarh PR Act. Section 7 (1) (b) lays down that Subject to the rules, which the State Government may make in this behalf, and subject to the general or special orders, as may be issued by the State Government from time to time the Gram Sabha shall have the powers to approve all plans including Annual Plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Gram Panchayat. The Gram Sabha shall lay down the principles for identification of schemes and developments and select beneficiaries under poverty alleviation programmes

Gujarat In consonance. Section 4(3)(b)of Gujarat State Panchayati Raj Act. Says that the Gram Sabha shall approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up implementation by the village panchayat.

Himachal Pradesh In consonance Section 97 C (2) of Himachal Pradesh State Panchayati Raj Act. Says that the Gram Sabha shall approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up implementation by the Gram Panchayat, at the village level.

Rajasthan In consonance Section 8 E (a) of Rajasthan State Panchayati Raj Act. Says that the Gram Sabha shall approve the plans, programmes and projects approved by the Ward Sabha before such plans programmes projects are taken up for implementation by Panchayat;
(b) identification or selection of beneficiaries under the poverty alleviation and other programmes.

As per 3-c (i) of notification of the State Government dated: 30-9-1999, before undertaking the implementation of the plans, programmes and projects for social and economic development, obtaining the approval of Gram Sabha is necessary.

Jharkhand Not in consonance. Section 10 (1)of Jharkhand Panchayati Raj Act 2001 states that Subject to such rules as the State Government may make in this behalf, and subject to the general or special orders, as may be issued by the State Government from time to time, the Gram Sabha shall have the powers

Madhya Pradesh In consonance. The Gram Sabha shall have the powers to approve plans.

Maharashtra In consonance Section 8A (ii) of Bombay Village Panchayat Act.

Orissa In consonance Section 5(3) of the State Panchayati Raj Act.

Section 4 (f) of PESA States that every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilization of funds by that Panchayat for the plans, programmes and projects for social and economic development.

Andhra Pradesh Not consonance. No, the funds utilized by the village Panchayat on works are verified by Gram Sabhas. Utilization certificates are issued by village Panchayat/ Panchayat Committee

Chhattisgarh Not in consonance. Section 7 (1) (e) of State Panchayati Raj Act provides that Subject to the rules, which the State Government may make in this behalf, and subject to the general or special orders, as maybe issued by the State Government from time to time, the Gram Sabha shall have the following powers to ascertain and certify the proper utilization by Gram Panchayat of funds for plans, programmes and projects

Gujarat In consonance. In Section 112 (1) (A) of the State Panchayati Raj Act. Says that the panchayat shall obtain from the gram sabha a certificate of utilization of funds by the panchayat for the plans, programmes and projects referred to in sub – clause
(i) of clause
(b) of sub – section (3) of section 4. which is as under: the Gram Sabha shall approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up implementation by the Village Panchayat.

However, The Gram Sabha does not issue utilization certificates for expenditure of programme funds but Sarpanch is the competent authority to issue UCs for village level works

Himachal
Pradesh In consonance Section 97 C (3) of the State Panchayati Raj Act. Says that every Gram Panchayat shall obtain from the Gram Sabha, a certificate of utilization of funds by the panchayat for the plans, programmes and projects referred to in sub – section (2).which as under:

(i) approve plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Gram Panchayat at Village level;

(ii) be responsible for the identification of selection of persons as beneficiaries under poverty alleviation and other programmes.

Rajasthan Not In consonance The funds utilized by the village Panchayat on works are verified by Gram Sabhas. Utilization certificates are issued by village Panchayat/ Panchayat Committee

Jharkhand Not in consonance. Section 10 (1) provides that Subject to the rules, which the State Government may make in this behalf, and subject to the general or special orders, as maybe issued by the State Government from time to time, the Gram Sabha shall have the following powers.

Madhya Pradesh in consonance. Yes, UCs is being issued by Gram Panchayat on the basis of a resolution after Gram Sabha

Maharashtra In consonance Section 8A (ii) of Bombay Village Panchayat Act

Orissa In consonance Section 5(3) of the State Panchayati Raj Act.

Section 4 (g)of PESA States that the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in the Panchayat for whom reservation is sought to be given under Part IX of the Constitution. Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats. Further, that all seats of chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes.

Andhra Pradesh In consonance. Section 242 D of the State Panchayati Raj Act. Says that the reservation of seats in the Scheduled Areas to every Gram Panchayat and Mandal Parishad as the case may be:

Provided that the reservation for the STs shall be less than one-half of the total number of seats: provided further that all seats of Sarpanchas of Gram Panchayats and presidents of Mandal Parishads shall be reserved for the Scheduled Tribes.

Chhattisgarh In consonance. Section 13(4) seats shall be reserved in every Gram Panchayat where 50% or less than 50% seats have been reserved both for the SCs and STs 25% of the total number of seats shall be reserved for OBCs and such seats shall be allotted by rotation to different Wards in the Gram Panchayat by the collector in the prescribed manner. Section 129 E provides that reservation for STs shall not be less than Â½ of the total number of seats provided further that all seats of Sarpanch or President of Panchayats at all levels in Scheduled Areas shall be reserved for STs.

Jharkhand Sub-judice In Jharkhand. The High Court of Jharkhand Struck down the provision for reservation of seats for Chairpersons. Ministry of Panchayati Raj has challenged the High Court Order in the Supreme Court.

Gujarat In consonance. Section 9 (5) (ia) of the State Panchayati Raj Act. Says that in the case of a village panchayat, the whole local area of which comprises of any of the Scheduled Areas, the number of seats reserved for the Scheduled Tribes under sub - clause (i) shall be increased to such number as is not less than one-half of the total number of seats in the village panchayat.

Himachal Pradesh In consonance Section 97 D reservation of seats of office bearer in Panchayats:- The reservation of seats in the scheduled areas to every Gram Panchayat and Panchayat Samiti shall be in proportionate to the population of the communities in the Gram Panchayat or the Panchayat Samiti, as the case may be:

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats.

Provided further that all seats of Pradhan of Gram Panchayats and Chairman of Panchayat Samitis shall be reserved for the Scheduled Tribes.

Madhya Pradesh In consonance Section 129 E says that Panchayats will be constituted at village level with reservations for Scheduled Tribes in the manner prescribed in Part IX of the Constitution.

Has extended the reservation of elective seats and chairpersons to both for Gram Panchayats, Janpad Panchayats and Zila Panchayats.

Rajasthan In consonance Section 16(2) says that number of offices reserved for SCs and STs shall bear the same proportion to the total number of each of such offices as the population of such tribes and castes to the total population of the State.

Maharashtra In consonance The state Panchayat is in consonance with the provision of PESA

Orissa In consonance The state Panchayat is in consonance with the provision of PESA

Section 4(h) of PESA that the State Government may nominate persons belonging to such Scheduled Tribes as having no representation in the Panchayat at the intermediate level or the Panchayat at the district level. Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat.

Andhra Pradesh In consonance. Section 242 E of the State Panchayati Raj Act states that the Government may nominate persons belonging to such STs who have no representation in Mandal Parishads: provided that such nomination shall not exceed one tenth of the total members to be elected in that Mandal Parishad.

Chhattisgarh In consonance. Section 129 E (2) of the State Panchayati Raj Act. Says that the State Government may nominate persons belonging to such STs who have no representation in a Panchayat in the Scheduled Areas at intermediate or district level provided that nomination shall not exceed 1/10 of the total members to be elected in the panchayat.

Gujarat In consonance. Section 11 A of the State Panchayati Raj Act. Says that the if for any reason an election does not result in the return of any member of Scheduled Tribes in a taluka panchayat or district panchayat, the State Government may nominate from amongst members belonging to Scheduled Tribes who are qualified to be elected, such number of members as not to exceed one-tenth of the total members to be elected in that panchayat.

Himachal

Pradesh In consonance Under section 97(d) of the Himachal Pradesh Panchayati Raj Act,1994 reservation for the Scheduled Tribes in the Panchayats at all the three levels is required to be provided in proportion to the population of the Scheduled Tribes to the total population and the reservation shall not be less than one-half of the total number of seats. But in the case of this State the population of the Scheduled Tribes is 75.42% and as such 79% seats are reserved for Scheduled Tribes.

Jharkhand In consonance Section 36 (b) (7) of the State Panchayati Raj Act.

Madhya Pradesh In consonance. Section 129 E (2) of the State Panchayati Raj Act.

Maharashtra Not in consonance. No provision in the State Panchayati Raj Act.

Orissa In consonance. Section 6(6) on the Zila Parishad Act.

Rajasthan In consonance. Section 3 (f) of the State Panchayati Raj Act.

Section 4
(i): The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

Andhra Pradesh In consonance. As per section 242 F of the Act the Mandal Parishad shall be consulted before making the acquisition of land in the Scheduled areas for development projects and before re-settling or rehabilitating persons evicted by such projects in the Scheduled areas, the actual planning and implementation of the projects in the scheduled areas shall be co-ordinated at the state level.

Subject Act
The AP Land Acquisition Act gives no insight in to function of mandal Parishad vis-Ã -vis role of Mandal revenue Officer in the process of Land acquisition.

Chhattisgarh In consonance. The State Panchayati Raj Act is silent but the rehabilitation policy makes conulstation with Gram Sabha mandatory.

Subject Act
Land Revenue Act 1894 as amended states that in scheduled areas private land can be acquired only after consultations only with the Gram Sabha

Gujarat In consonance. Section 132-A of PRA provides for the Taluka Panchayat to be consulted before acquisition of land and rehabilitation of persons affected.

	Subject Act-	NOC of Taluka Panchayat is required before acquiring under the Land Acquisition Act, 1894
Himachal Pradesh	In consonance	Section 97 - F of the State Panchayati Raj Act states that the Gram Sabha shall be consulted before making the acquisition of land in the scheduled areas for development of projects and before re-settling or rehabilitating persons evicted by such projects in the scheduled areas; the actual planning and implementation of the projects in the scheduled areas shall be co-ordinated at the State Level.
	Subject Act	Section 3(1) of Himachal Pradesh Transfer of Land (Regulation) Amendment Act 2002.
Rajasthan	in consonance	Section 8 E (e) of the State Panchayati Raj Act. Says that the Gram Sabha or the Panchayati Raj Institution at such level, as may be prescribed by the State Government, shall be consulted but no such provision made.
		As per clause 3-g of the notification of the State Government dated 30-9-1999, prior to the acquisition of land in the scheduled areas and persons affected by acquisition of such projects, rehabilitation or resettlement of such persons, Gram Sabha OR Panchayati Raj Institutions as prescribed by the State Governments should be consulted. Preparation of actual plans and their implementation will be coordinated at the State level in the Scheduled areas.
	Subject Act	Subject Act is silent about it.
Madhya Pradesh	In consonance	Section 7 &129 C of the State Panchayati Raj Act. Says that prior consultation with Gram Sabha or Panchayat at the appropriate level shall be made mandatory. Prior consultation with Gram Sabha or Panchayat shall acquisition land for development projects and resettlement of displaced persons.
	Subject Act	Land Revenue Act 1894, as amended, states that in scheduled areas private land can be acquired only after consultations only with the Gram Sabha
Jharkhand	Not in consonance	The State Panchayati Raj Act is silent.
	Subject Act	Bihar Land Acquisition Act along with amended act of 1984 makes no mention of Panchayats in the matter
Maharashtra	In consonance	As per Section 45A of State Panchayati Raj Act
	Subject Act	Section 41 of Maharashtra Housing and Area Development Act has been amended.

Orissa In consonance Section 3(6) of Orissa Zila Parishad Act 1997 gives powers to Zila Parishad.

Subject Act
The Subject Act is silent about it.

Section 4 (j): Planning & management of Minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;

Andhra Pradesh In consonance. Section 242G of the State Panchayati Raj Act. Says that planning and management of minor water bodies on the scheduled areas shall be entrusted to Gram Panchayats, Mandal Parishads or the Zilla Parishads, as the case may be in such manner as may be prescribed.

Subject Act
Farmers organizations (which are Parallel bodies) in Scheduled areas ayacut committee are responsible for managing minor water bodies.

Chhattisgarh Partially consonant. The State Panchayati Raj Act has assigned powers up to a specified water areas: Section 7 (1) says subject to the rules which the state government may make the Gram Sabha shall have powers under section 7(1)(j-iii) to advice the Gram Panchayat in regulating use to Minor Water Bodies.

Subject Act
Nothing has been mentioned about it by the irrigation Department in their provisions Acts

Gujarat In consonance. As per Schedule I (k,i) of the State Panchayati Raj Act.

Subject Act
No Information exists.

Himachal Pradesh In consonance Section 97-G planning and management of minor water bodies in the scheduled areas shall be entrusted to Gram Panchayats, Panchayat Samitis or the Zilla Parishads as the case may be, in such manner as may be prescribed.

Subject Act
Minor water bodies are handed over to user's groups (parallel bodies) called krishak vikas sangh registered under the State Coop. Act.

Rajasthan in consonance Section 8 E (K)of the State PRA provides for the planning and management of minor water bodies, as may be specified by the State Government, in the Scheduled Areas Management of minor water sources between 80 to 300 hectare has been shifted from irrigation department to Panchayati Raj Institutions and employees of different levels have been deployed. Their salary and allowances are being paid by

Panchayati Raj Institutions.

Subject Act
No information available

Jharkhand In consonance As per schedule 76 b of section 5 of the State Panchayati Raj Act.

Subject Act
No Amendment has been made in Bihar Irrigation act 1997.

Madhya Pradesh In consonance As per section 129 (f) (i) of the State Panchayati Raj Act.

Subject Act
No information available.

Maharashtra Not in consonance. The Maharashtra Act does not make a mention in this matter.

Subject Act
No Provision

Orissa In consonance The Orissa Act has assigned this subject to District Panchayats.

Subject Act
No Provision

Section 4 (k): The recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting license or mining lease for minor minerals by auction:

Andhra Pradesh In consonance. Section 242 H of the State Panchayati Raj Act. Says that the recommendations of the Gram Panchayat, made in such manner as may be prescribed, shall be taken into consideration prior to grant of prospecting license or mining lease, for minor minerals in the Scheduled Areas.

Subject Act:
No provisions have been made in the Mines and Minerals (regulation and development) Act of 1957.

Chhattisgarh Not in consonance. The State Panchayati Raj Act has no provision in this regard.

Subject Act:
Gram Sabha and Gram Panchayats have no powers in this regard.

Gujarat Not in consonance. The State Panchayati Raj Act has no provision in this regard.

Subject Act
The Gujarat Mines & Minerals (Reg. & Dev.) Act provides that prior to granting the quarry lease and quarry permit, recommendations of GP shall be obtained.

Himachal Pradesh Not in consonance. Under the provisions of section 97-H of the HP Panchayati Raj (Second amendment) Act, 1997 there is, a provision that the recommendation of the Gram Sabha shall be taken into consideration prior to grant of prospecting license or mining lease, for minor minerals in the scheduled areas

Subject Act:
There is no provision in the Himachal Pradesh minor minerals (concession) revised rules.

Jharkhand Not in consonance. No provision in the State PR Act 129 C(3) gives a vague reference.

Subject Act:
No provision in the Bihar minor concession rules.

Madhya Pradesh In consonance. Law has been amended and concurrence of Gram Sabha is necessary.

Maharashtra In consonance. Section 45 A (iii) b of the State PR Act.

Subject Act
No information available

Orissa In consonance. Section 3(6) (a) of the Orissa Zila Parishad Amendments Act 1997.

Subject Act
No changes made in the relevant laws.

Rajasthan Partially consonance. As per clause 3(I) of the State Government notification dated: 30-9-1999 "for minor minerals in scheduled areas any person or a body of persons Gram Sabha or Panchayati Raj Institutions will not accept mining lease without prior license or prior recommendation as prescribed in the notification". In this regard the department of mines has also issued notification dated 12-4-2002.

Section 4 (l): The prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of oncession for the exploitation of minor minerals by auction;

Andhra Pradesh	In consonance	As per section 242 H (2) of the Act the recommendation of the Gram Panchayat, made in such manner prescribed, shall be taken in to consideration for grant of concession for the exploitation of minor minerals by auction.
Chhattisgarh	Not in Consonance	
Gujarat	Not in Consonance	Not in Consonance
Himachal Pradesh	In consonance	Section 4(1) The prior recommendation of the Gram Sabha or the Panchayat at the appropriate level has been made mandatory for grant of concession for the exploitation of minor minerals by auction. Transfer of royalty on minor minerals to` the Gram Panchayats is under the consideration of the Government
Jharkhand	Not in consonance	
Madhya Pradesh	In cnsonacne	Earlier Gram Panchayat exercised the powers. since year 2000, the auction of minerals is carried by the District administration, after consulting the Gram Panchayat
Maharashtra	Not in consonance	
Orissa	Not in consonance	
Rajasthan	In consonance	As per clause 3 J of notification of the State Government dated 30-9-1999, it is provided that no concession will be accepted without the recommendation at such level and such made as prescribed for the exploitation of the minor minerals by auction in schedule areas from Gram Sabhas or Panchayati Raj Institutions.

Section 4 (m)
(i): The power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;

Andhra Pradesh	partially in consonance.	As per section 242 I () of the Act the Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of enforcement of prohibition or regulation or restriction of the sale and consumption any intoxicant.
		Subject Act No Provisions made to empower the Panchayats.

Chhattisgarh Not in consonance. The State Panchayati Raj Act is silent on this issue.

Subject Act
Chhattisgarh Excise act has assigned this power to Gram Sabha.

Gujarat Not in consonance/ but the state has adopted total prohibition
The State Panchayati Raj Act has no provision in this regard as the State has adopted prohibition in the whole state.

Himachal Pradesh In consonance
Section 97 I (1) (b) of the State Panchayati Raj Act. Says that the Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of the following matters, namely:-

(b) enforcement of prohibition or regulation or restriction of the sale and consumption of any intoxicant.

Subject Act
Punjab Excise Act1914 has empowered the Panchayats.

Madhya Pradesh In consonance
Panchayats at the appropriate level and the Gram Sabha to be endowed with the powers.

Subject Act:
Follows the central Act and M.P. Excise Act, 1915 has been amended to give powers to Gram Sabhas.

Jharkhand Not in consonance. The Jharkhand PR Act is silent on this.

Subject Act
Excise act provides for total prohibition where Tribal population exceeds 50%

Maharashtra In consonance
Section 8 A (v) of Bombay Village panchayat Act.

Subject Act
No provisions made to empower the panchayats.

Orissa In consonance
Section 44 2(a) of Orissa Gram Panchayat Act

Subject Act
No provisions in the act but administrative instructions exist.

Rajasthan Not In consonance. As per 3 K (i) of notification of the State Government dated 30-9-1999, it is provided that at the level of Panchayati Raj Institutions or at the Gram Sabha level as may be prescribed under the rules framed for enforce prohibition are to regulate

are restrict the sale and consumption of intoxicants in the scheduled areas.

Subject Act
No provisions made to empower the panchayats.

Section 4 (m)
(ii): The ownership of Minor Forest Produce;

Andhra Pradesh Not in consonance. Section 242 (I) (b) of the AP Act says that Gram Panchayat or Gram Sabha as the case may be, shall exercise powers in this matter, as may be prescribed, in respect of ownership of Minor Forest Produce no provision made in the subject Act hence not in consonance.

Subject Act
No provisions made to empower the Panchayats the rights with Girjan Cooperative Corporation.

Chhattisgarh Not in consonance. The State Panchayati Raj Act is silent on this issue.

Subject Act
No provisions made to empower the Panchayats.

Gujarat In consonance The Government of Gujarat has already amended the Gujarat Panchayat Act from 27/12/97. Accordingly all activities regarding M.F.P. viz. Collection, marketing and trading are entrusted to three tier Panchayats M.F.P. are collected at village level stored at taluka level or block level and marketing and trading are to be done at district level.

Subject Act
No provisions made to empower the Panchayats.

Himachal
Pradesh Not in consonance. The HPPR Act (section 97I(1)) says that either Gram Panchayat or Gram Sabha shall exercise these powers in such manner as may be prescribed but no such provision made in consonance.

However, Pradhans of Gram Panchayats have been appointed as the Forest Officer for the issuance of pass for transport of Minor Forest Produce collected from the Forest in concerned Panchayat in respect of 37 species.

Subject Act
No provisions made to empower the Panchayats.

Madhya Pradesh In consonance Ownership lies with Gram Sabha. There is a MFP federation that gives back the money collected by the sale of Nationalized MFP to the individuals concerned.

Jharkhand Not in consonance. The Jharkhand PR Act is silent on this issue

Subject Act
No provisions made to empower the Panchayats.

Maharashtra Not in consonance. Section 8 A
(vi) of Bombay Village Panchayat Act

Subject Act
No provisions made to empower the Panchayats.

Orissa In consonance Section 44 (2) (b) the Orissa Gram Panchayat Act.

Subject Act
Ownership of 68 MFP's excluding Tenduleaves,sal seeds and Bamboo have been transferred to Gram Panchayats except MFP from reserved forests sanctuaries and national parks.

Rajasthan In consonance As per clause 3 k
(ii) of notification of State Government dated 30-9-1999, it is provided that Panchayati Raj Institutions are Gram Sabha level as may be prescribed by the State Government on the receipts of Minor Forest Produce in scheduled areas and the control will be with Panchayati Raj Institutions or Gram Sabha under the laws.

Section 4 (m)
(iii): The power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

Andhra Pradesh Not in consonance. Section 242 I (c) of the State Panchayati Raj Act. Says that the Gram Panchayat or Gram Sabha shall have power to the extent prescribed in respect of prevention of alienation of land in Scheduled Areas and restoration of unlawfully alienated land of a ST.

Subject Act
Land (transfer regulation) Act has not been amended.

Chhattisgarh Not in consonance. The State Panchayati Raj Act is silent on this issue.

Subject Act
The Gram Sabha are endowed with power of identification and restoration of land

Gujarat Not in consonance. The State Panchayati Raj Act is silent on this issue.

Subject Act
Under Section 73 (aa) of the Mumbai Land Revenue code the power to prevent alienation of land in Scheduled Areas and to take appropriate action to restore unlawfully alienated land of a Scheduled

area vested with district Panchayat.

Himachal Pradesh Not in consonance. The State Panchayati Raj Act is silent on this issue.

Subject Act
Section 3 of the HP Transfer of Land (Regulation) Act, 1968 provides that no person belonging to Scheduled Tribe shall transfer his interest in any land including any constructed premises by way of sale, mortgage, lease, gift or otherwise to any person not belonging to such tribes except with the previous permission in writing of the State Government provided that the Sate Government before according such permission shall consult the Gram Sabha or the Panchayats at the appropriate level.

Madhya Pradesh In consonance Subject Act Land Revenue code 1959 has been amended to empower Gram Sabha.

Jharkhand In consonance Section 77(a) of the State PR Act.

Subject Act
There are already provisions in the subject acts to safeguard against land alienation However no changes have been made in terms of PESA

Maharashtra In consonance Section 8A (vii) of Bombay Village Panchayat Act.

Subject Act
No provisions made to empower the Panchayats.

Orissa In consonance Section 44 (2) (c) Orissa Gram Panchayat Act.

Subject Act
The subject act has been amended.

Rajasthan Not in consonance. As per clause 3k (iii) of notification o the State Government dated 30-9-1999 it is provided that to stop the encroachment of land in the scheduled areas and to restore the unlawfully alienated land in the scheduled areas under the prevailing law in the state Panchayati Raj Institutions or Gram Sabha are empowered to take appropriate action.

Subject Act
No amendment in the subject Act.

Section 4 (m)
(iv): The power to manage village markets by whatever name called;

Andhra Pradesh Not in consonance. As per section 242 I (1) (d) of the Act the Gram Panchayat or as the case may be, the Gram Sabha

shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of Management of Village Market by whatever name called.

Subject Act
No provision has been made in the Agriculture produce and Livestock market Act Instead the work has been given to market committees.

Chhattisgarh In consonance. Section 129 C (V) of the State Panchayati Raj Act. Says that the Gram Sabha in Scheduled Areas shall have power to manage village markets, melas including cattle fair through Gram Panchayat.

Subject Act
No provision has been made in the subject act

Himachal Pradesh In consonance. Section 97 I (1) (c) of the State Panchayati Raj Act. Says that the Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of the following matters, namely:-

(c) management of village markets by whatever name called.

Subject Act
All regulatory rights vest with the Panchayats

Madhya Pradesh In consonance Section 129-D (ii) of the State Panchayati Raj Act. Says that panchayats at appropriate level or the Gram Sabha to be endowed with this power Provisions as per Central Act has been made in the State Act.

Subject Act
No provision has been made in the subject act

Jharkhand In consonance Section 75(21) of the State PR Act.

Subject Act
Krishi Bazar Adhiniyam gives powers to the State Govt .to operate markets and fairs in partnership with Panchayats.

Gujarat In consonance Section 99 of State PR Act states that Gram Sabha is competent to manage village market

Subject Act
No provisions made to empower the Panchayats.

Maharashtra Not in consonance. The State PR Act is silent on the issue.

Subject Act
No provisions made to empower the Panchayats.

Orissa In consonance The Section 59 of the State PR Act.

Subject Act
Orissa Agriculture produce marketing Act has excluded the schedule areas and has left it for GP. But the provision has been stayed by the High Court

Rajasthan
In consonance

Subject Act
No provisions made to empower the Panchayats.
No provision in the State Agriculture Marketing Act.

Section 4 (m)
(v): The power to exercise control over money lending to the Scheduled Tribes;

Andhra Pradesh Not in consonance. As per section 242 1 (1) (e) of the Act the Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of exercising control over money lending to the Scheduled Tribe.

Subject Act
No provision has been made in the Subject Act.

Chhattisgarh Not in consonance. The State Panchayati Raj Act is silent on this issue.

Subject Act
No provision has been made in the Subject Act.

Himachal
Pradesh Not in consonance. Section 97-I(1)(d) The Gram Panchayat or as the case may be, the Gram Sabha shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of exercising control over money lending to the Scheduled Tribes. The manner and the extent is to be prescribed

Subject Act
No provision in the Himachal Pradesh registration of money lenders Act.

Madhya Pradesh In consonance Subject Act
MP Anusoochit Janjati Sahukkar Viniyam, 1972 has been amended in the year 2001. It has been sent to the President of India for assent.

Jharkhand Not in consonance. The PR Act is silent on the issue

Subject Act
No provisions made to empower the Panchayats.

Gujarat In consonance Section 278 A of State PR Act.

No money lender shall lend any money to a member of the scheduled tribe residing in a scheduled areas of the State as referred to in clause (1) of article 214 of the Constitution of India, without previous sanction of the village panchayat of that village.

Subject Act
No provisions made to empower the Panchayats.

Maharashtra Not in consonance. No provision has been made in the Subject Act.

Subject Act
Under the Maharashtra Act, such license can be granted by Registrar after consultation with Gram Sabha(s) and concerned Panchayat(s).

Orissa In consonance Section 44(2) (d) of the Orissa Gram Panchayat Act.

Subject Act
No provisions made to empower the Panchayats.

Rajasthan in consonance. As per clause 3k (v) of notification of State Government Dated: 30-9-1999 it is provided that controlling of money lending to Scheduled tribes in the Scheduled areas, Panchayati Raj Institutions or Gram Sabha are empowered. Under Money Lending Act 1963 the notification of the Department of revenue dated 17th April 2002 Panchayat Committee is Appointed as Registrar and Gram Panchayat as sub-registrar.

Subject Act
No provision has been made in the subject act

Section4(m)
(vi) Provides that the Panchayats at the appropriate level and the Gram Sabha are endowed specially with the power to exercise control over institutions and functionaries in all social sectors.

Andhra Pradesh Partly in consonance. Section 3 of the State PR Act Mandal Parishad has been given the control.

As per section 242 I (2) (a) of the Act the Mandal Parishad shall exercise such powers and perform such functions in such manned and to such extent as may be prescribed in respect of exercising control over institutions and functionaries in all social sectors.

But no functionary has been transferred to Panchayats.

Chhattisgarh (ii) Partly in consonance. Section 129F of the state PR act the Janpad Panchayat or the Zilla Panchayat shall exercise, control over institutions and functionaries in all social sectors transferred to them.

Government of Chattisgarh has transferred six types of functionaries to Panchayats

Jharkhand Partly in consonance. Section 10(1)(a)(x) of the State PR Act. But no functionary has been transferred to Panchayats.

Gujarat in consonance. The power have been given to Gram Panchayat – " the power to exercise control over gram Panchayat"

Himachal Pradesh Partly in consonance. Section 97-I(2)(a) The Panchayat Samiti shall exercise such powers and perform such functions in such manner and to such extent as may be prescribed in respect of exercising control over institutions and functionaries in all social sectors. The manner is to be prescribed.

Madhya Pradesh In consonance Section 7(J-i) of the State Panchayati Raj Act. Says that panchayats at appropriate level and the Gram Sabha to be endowed with the power.

The powers have been given to the Gram Sabha, Janpad Panchayat and Zila Panchayat.

Maharashtra Not in consonance. State PR Act has been given.

But no functionary has been transferred to Panchayats.

Orissa Not in consonance. State PR Act the control has been given.

But no functionary has been transferred to Panchayats.

Rajasthan (vii) Not in consonance. As per clause 3k of notification of the State Government dated:30-9-1999 it is provided that Panchayati Raj Institutions or Gram Sabha as may be prescribed, in the Scheduled Areas will have power to control to that extent and the mode as specified by the State Government from time to time in all social sectors over institutions and functionaries.

Section (vii) 4.m Section. the power to control over local plans and resources for such plans including tribal sub-plans;

Please refer to 4. e (supra)

Section 4. n The State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

Andhra Pradesh	In consonance. It is proposed to follow the principle of subsidiarity to ensure that the interference of higher levels in the powers of the lower levels is not present
Chhattisgarh	In consonance. Position not known
Jharkhand	Partly in consonance.
Gujarat	In consonance. Gujarat Panchayat Act, 1993 has specified distinctive powers and authority to all the three levels of Panchayats. Hence the possibility of power at lower level Panchayats is non-existent. Panchayat Raj institutions are aware of their rights and responsibility. Any levels of Panchayats do not tolerate any such act by the higher authorities including State Govt.. Also there are provisions for appeals and revision in the Act itself if any such incident occurs.
Himachal Pradesh	in consonance. There is no such interference, however to make the functions clear at three levels, Activity Mapping of the functions to be devolved to PRIs at different level is being done by the State Government.
Madhya Pradesh	In consonance Panchayats are independent of each other.
Maharashtra	The State has not yet responded to this query
Orissa	The State has not yet responded to this query
Rajasthan	in consonance. No Panchayati Raj Institutions at the higher level never interfere in the power of lower level Panchayati Raj Institutions. Advice to the lower level Panchayati Raj Institutions are given and the supervision of their work is done.